THE HON'BLE MR JUSTICE N.V. RAMANA

WRIT PETITION No.7860 of 2006

DATED: 20.4.2006

Between:

P.J.Mohan petitioner

And

The Depot Manager,

APSRTC, Anantapur district and another respondents

THE HON'BLE SRI JUSTICE N.V.RAMANA

WRIT PETITION No.7860 of 2006

ORAL ORDER:

This writ petition is filed seeking Writ of *Mandamus* declaring the action of the respondents in passing the impugned order dated 16.03.2002 imposing punishment of deferment of one annual increment with cumulative effect.

The petitioner is working as Conductor in the respondent corporation. While so, on 8.3.2001 a check was exercised and a charge memo was issued to him alleging cash and ticket irregularities. He submitted his explanation and having not satisfied with the same, a charge sheet dated 15.3.2001 was issued to him. He submitted his explanation denying the charges levelled against him. However, without considering the same, and without conducting any enquiry, the impugned final orders were passed imposing punishment of deferment of one annual increment with cumulative effect. Hence, the present writ petition questioning the action of the respondents in imposing the major punishment without conducting a departmental enquiry.

Learned counsel for petitioner contends that punishment of deferment of one annual increment with cumulative effect is a major penalty and the same cannot be imposed without conducting regular departmental enquiry as contemplated under the APSRTC Employees' (CC & A) Regulations. In support of his contention, he placed reliance on judgment of the Supreme Court in ***KULWANTH SINGH GILL Vs. STATE OF PUNJAB***. Learned counsel for petitioner also relied on a judgment of this Court in W.P. No. 20609 of 1999 dated 7.12.2005, which is in a similar background of facts and circumstances.

Heard the learned counsel for petitioner and learned Standing Counsel for respondents Corporation. Both counsel submitted that the matter is squarely covered by orders of this Court in W.P. No. 20609 of 1999.

It is an admitted fact that the first respondent imposed punishment of deferment of one annual increment with cumulative effect, which is a major punishment. Admittedly, no regular departmental enquiry was conducted though the charge sheet was issued to the petitioner before imposing the penalty. The Apex Court in ***KULWANTH SINGH GILL'S CASE*** (cited supra) held that stoppage of increments with cumulative effect is a major penalty and it cannot be imposed without conducting the departmental enquiry. Since the punishment of stoppage of annual increment was imposed without conducting regular departmental enquiry, which is violative of the judgment of Apex Court, the impugned order cannot be sustained.

In the ordinary course of things, the impugned order needs to be set aside leaving it open to the first respondent to pass fresh orders. But to avoid further litigation in the matter, having regard to the nature of punishment, both the counsel

agreed that instead of remitting the matter to the first respondent for passing fresh orders, prayed that the impugned order be treated as one imposing stoppage of one annual increment without cumulative effect.

In view of the admitted stand taken by the learned counsel for the respective parties, the impugned order dated 16.3.2002 passed by the first respondent imposing the punishment of stoppage of one annual increment with cumulative effect, is modified to that of stoppage of one annual increment without cumulative effect. The petitioner shall not be entitled to any monetary benefit arising out of this order, but shall be entitled to fixation of pay only.

Accordingly, the writ petition is disposed of. No costs.

_____

N.V.RAMANA, J

DATE: 20.4.2006

kvni